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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/792,237

03/03/2004

Manabu Fujita

17517

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EXAMINER

SMITH, PHILIP ROBERT

ART UNIT

PAPER NUMBER

3739

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/792,237

Applicant(s)

FUJITA ET AL.

Examiner

Philip R. Smith

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/22/04, 5/18/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Restrictions

- [01] As per the election of 11/29/2006, claims 1-6 are withdrawn, without traverse, from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group.

Specification

- [02] The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 U.S.C. 112, Paragraph Two

- [03] The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- [04] Claims 10,11,15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- [05] The claims recite that "a number n of antennas whose receiving and transmitting states are checked is smaller than a number N of attached antennas when switching the antennas." The scope of these claims is not clear, and their meaning is not imparted by the specification.

Claim Rejections - 35 USC § 102

- [06] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

[07] Claims 7-17 are rejected under 35 U.S.C. 102(a) as being anticipated by Fujita (2003/0085994).

[08] Fujita discloses a capsular medical system comprising:

[08a] a capsular in-body unit ("capsule type endoscope 3," [0074]) having a radio communication device ("antenna 23," [0074]) which is inserted or swallowed to be introduced to the body cavity;

[08b] an extracorporeal device ("external unit 5," [0070]) having a communication device for communication with the in-body unit, which is arranged outside the human body;

[08c] at least two antennas ("multiple antennas 11a to 11d," [0070]) which are arranged near the body surface to communicate data to the in-body unit connected to the extracorporeal device;

[08d] a switching device ("antenna switch 45," [0071]) which switches the antennas;

[08e] a detecting device ("receiving circuit 33," [0075]) which detects a communication state;

[08f] an antenna selecting device ("antenna select circuit 46," [0075]) which detects a receiving strength, in the in-body unit, of signals transmitted from at least two antennas and selects the antenna in a preferable receiving and transmitting state.

[09] With regard to claim 7: the capsular medical system disclosed by Fujita inherently operates the switching device at a switching timing in a communication direction.

[10] With regard to claim 8: Fujita discloses that the antenna selecting device performs the operation at the time interval set by a timer ("sequentially selected," [0073]; "repeated at intervals of proper period of time," [0083]).

[11] With regard to claim 9: Fujita discloses that the detecting device performs the operation at the time interval set by a timer (as noted above) and, when a communication state is deteriorated, the antenna is switched ("the antenna 11i, through which the highest radio wave strength data can be received, must be changed," [0083])

[12] With regard to claim 10: Fujita's invention is inherently capable of having a number n of antennas whose receiving and transmitting states are checked smaller than a number N of attached antennas when switching the antennas.

[13] With regard to claim 11: Fujita discloses that the antenna whose receiving and transmitting state is checked is determined based on the antenna which currently

receives data.

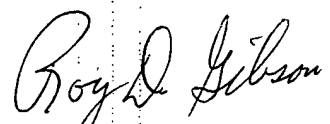
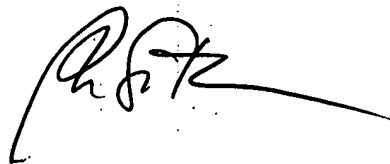
- [14] With regard to claim 12: Fujita discloses a storing device for storing the receiving and transmitting state ("memory 47," 0072]), wherein, when the receiving strength data is not obtained upon operating the antenna selecting device, the antenna which can communicate data is checked is selected to ensure the communication ("antenna 11i," as noted above).
- [15] With regard to claim 13: Fujita discloses that the antenna selecting device operates at the time interval set by a timer (as noted above).
- [16] With regard to claim 14: Fujita discloses that the detecting device performs the operation at the time interval set by a timer (as noted above) and, when a communication state is deteriorated, the antenna is switched (as noted above).
- [17] With regard to claim 15: Fujita's invention is inherently capable of having a number n of antennas whose receiving and transmitting states are checked smaller than a number N of attached antennas when switching the antennas.
- [18] With regard to claim 16: Fujita discloses that the antenna whose receiving and transmitting state is checked is determined based on the antenna which currently receives data ([0074]).
- [19] With regard to claim 17: Fujita discloses that when data on the receiving strength is not obtained upon operating the antenna selecting device, the antenna which can communicate data is checked is selected to ensure the communication ("antenna 11i," as noted above).

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Conclusion

- [20] The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Fukuda (7,032,600) and Frisch (2002/0173718) disclose capsule endoscope systems with external antenna arrays.
- [21] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip R. Smith whose telephone number is (571) 272 6087 and whose email address is philip.smith@uspto.gov. The examiner can normally be reached between 9:00am and 5:00pm.
- [22] If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272 4764.
- [23] Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

[24] prs



ROY D. GIBSON
PRIMARY EXAMINER